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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 February 1995, at 3 p.m.

Chairman: Mr. BIN HATAM (Malaysia)

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The meeting was called to order at 3.10 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

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(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 10) (continued) (E/CN.4/1995/6-E/CN.4/Sub.2/1994/42, E/CN.4/1995/9-E/CN.4/Sub.2/1994/44, E/CN.4/1995/30, 31 and Add.1-4, 32, 33, 34 and Add.1 and Corr.1-2, 35, 36, 37, 38 and Add.1, 39-41, 100, 111 and 133; E/CN.4/1995/NGO/3, 6, 19, 23 and 37; E/CN.4/Sub.2/1994/22, 23 and Add.1, 24 and 33; A/49/484 and Corr.1 and Add.1)

1. Mr. SILK (Robert F. Kennedy Memorial Center for Human Rights), referring to the widespread problem of human rights violations carried out under the authority of national security legislation, said that legislation purporting to protect national security and public order had often been used to limit internationally recognized human rights, particularly the rights to freedom of expression, association and religion. He therefore welcomed the 1994 report of the Sub-Commission's Special Rapporteur on human rights and states of emergency (E/CN.4/Sub.2/1994/23 and Corr.1 and Add.1) which recognized that the implementation of emergency regulations through ordinary, permanent laws was a "misuse of law" which was particularly serious when it took the form of criminal laws or procedures applicable under normal circumstances. Such legislation not only restricted rights which could be suspended only during formally declared states of emergency but even affected inalienable rights from which no derogation was possible.

2. In China and Tibet, the authorities continued to detain without charge those who advocated democracy and human rights and to arrest, convict and sentence them for "counter-revolutionary crimes" or other acts that allegedly undermined State security. In its report (E/CN.4/1995/31), the Working Group on Arbitrary Detention found that the exercise of entrenched rights, such as that of freedom of expression and association, could not form the legal basis of a conviction. Any municipal legislation which considered such activities to be "counter-revolutionary propaganda and agitation" was inconsistent with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Nevertheless, the recent State Security Law threatened the few legal means of operation left to Chinese and Tibetan democracy and human rights activists, independent religious adherents and other independent forces. The law broadened the power of public security officials to detain individuals and to determine what constituted a "hostile" organization.

3. In Indonesia, the Government had continued to use charges of "subversion", "threatening national unity" and "public criticism of the Government" to detain and imprison labour leaders and human rights activists and to close down independently operated publications. The draft presidential decree on non-governmental organizations (NGOs), which gave the Government broad powers to dissolve any non-governmental organization that engaged in political activities or activities threatening the national interest, could effectively prohibit Indonesian human rights organizations from forwarding information or expressing concern to international organizations and foreign NGOs.

4. Abuses of national security laws also continued in States which had taken positive steps towards the establishment of democratic institutions. In the Republic of Korea, for example, individuals continued to be arbitrarily detained on charges of violating the National Security Law (NSL), which criminalized any activity deemed by the authorities to demonstrate sympathy for the Democratic People's Republic of Korea. While the Republic of Korea had legitimate security concerns, the NSL had been consistently employed to punish non-violent political dissent and other activities protected under international law.

5. In Kenya also, laws such as those against "sedition", "incitement" and "holding illegal meetings" were used to detain and harass independent journalists and opposition political figures, including members of Parliament and well-known critics of the Government.

6. It was noteworthy that human rights violations tended to increase during periods in which the authorities were endeavouring to consolidate unity in the process of nation-building. A case in point was that of a Palestinian lawyer who had been arrested without any legal basis and questioned as to why his organization opposed the establishment by executive decree of State security courts in the Palestinian autonomous areas. His arrest was merely one of the hundreds of detentions carried out by the Palestinian National Authority without judicial authority.

7. His organization thus urged the Commission to endorse the observations of the Sub-Commission's Special Rapporteur and his recommendation for in-depth consideration of the issue of state of emergency. It also requested the Sub-Commission to undertake a study aimed at identifying the effects of national security and similar laws on the exercise of basic rights and at delineating the circumstances that constituted legitimate threats to national security.

8. Mr. MUGUIRO IBARRA (International Federation of ACAT (Action of Christians for the Abolition of Torture)) said that, through its work in many parts of the world, his organization had become aware of many situations in which torture was practised. It shared the concern expressed by the Committee against Torture about reports of the widespread practice of torture in the investigation of terrorist acts and of the impunity of the perpetrators. In the case of Peru, those reports were corrcborated by the information his organization had received from that country's National Human Rights Coordinator concerning the methods of torture, including rape, used by special intelligence units of the Peruvian military.

9. The practice was common knowledge in Peru but there was no investigation of reports and the perpetrators went unpunished. His organization requested, therefore, that a joint visit to Peru be made by the Special Rapporteur on the question of torture and the Working Groups on Arbitrary Detention and Enforced or Involuntary Disappearances.

10. Ms. GARGAR (France-Libertés: Fondation Danielle Mitterand) said that, speaking on behalf of the International Federation of Human Rights as well as her own organization, she wished to draw the Commission's attention to those countries, including Iran, which used torture and other cruel, inhuman or degrading treatment as a method of war against their populations and which refused to authorize any mission of investigation in their territory. The victims or witnesses of those acts continued to be the object of intimidation and even torture if they dared to speak of their ordeal. Increasingly, members of human rights associations and journalists were becoming targets of attack, as in the case of Iraqi Kurdistan where the Iraqi authorities and those of neighbouring countries, such as Iran, were causing the disappearance of members of non-governmental organizations likely to provide proof of their crimes.

11. The rehabilitation of the victims of torture was rendered more difficult by the constant threat to them which made them reluctant to provide testimony and seek treatment. In Turkey, for example, few of the refugees from Iran who had been victims of torture dared to seek medical treatment for fear of being returned to Iran. For their part, Western countries accepted very few such refugees.

12. It was clear from reports that in many countries national laws and practice took precedence over international law and were often used to oppress population groups which shared a different opinion or religion. The Iranian Government, for example, applied Shiite religious law concerning temporary marriages to Kurdish women of the Sunni sect thereby, in fact, legalizing rape in a form of ethnic cleansing. Moreover, despite its prohibition by the Constitution of Iran, torture was often used to obtain confessions or humiliating self-criticisms from victims. Law-enforcement and prison officials had come to consider that practice as normal and enjoyed complete immunity from punishment.

13. Similarly, in Peru, members of the armed forces practised torture, including rape, in their investigation of terrorist acts and remained unpunished. The organizations she was representing thus urged the Special Rapporteur on the question of torture to visit Peru to investigate the situation with regard to torture there and the Peruvian Government to request advisory services from the Centre for Human Rights.

14. The Commission must take appropriate steps to protect members of human rights associations; to permit the victims of torture and their families to provide testimony and receive medical care and protection from expulsion; to pay particular attention to the situation of female victims of torture; and to contribute to the training of legal personnel, police, prison warders and persons concerned with the treatment of torture victims; and must urge all States to sign and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and call upon Western countries

to grant asylum to the victims of torture. It must also strengthen the resources and powers of the special rapporteurs and exert increased pressure on those Governments which continued to deny access to their territory to missions of investigation into human rights situations. It was essential that the Commission should react to the painful reality of the continued practice of torture throughout the world. It could not go on year after year accepting such shameful practices as if they were inevitable.

15. Impunity merely encouraged further violation of human rights and did nothing to promote reconciliation. In that regard, she deplored the amnesty law passed by the Mauritanian Government in 1993 in favour of those responsible for the killing of more than 500 black-African military, police and security personnel in that country. That Government, which had not yet signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, pursued a policy of systematic repression of the black-African population of the country.

16. Mr. MEZHOUD (Anti-Slavery International for the Protection of Human Rights), addressing the issue of the transplanting of the organs of condemned prisoners in the People's Republic of China, said that there was mounting evidence that prisoners condemned to death were the source of most of the organs transplanted in that country. In most large Chinese cities, a team of doctors was always on hand to dissect and remove the organs of prisoners after they had been shot, but organs were sometimes removed prior to the execution of prisoners. There were also reports that prisoners whose organs were to be used for transplant were kept on special diets and that the moment of their execution was determined by medical needs.

17. The Chinese authorities made no attempt to obtain the consent of the prisoners and their families. The Commission should thus urge the Chinese Government to ensure that organs to be used for transplant were taken only from prisoners sentenced to death after due process of law, that the permission of prisoners and their families was obtained in advance and that the use of organs from executed prisoners was based solely on medical need and not commercial gain.

Statements in exercise of the right of reply

18. Mr. Joon-Hee LEE (Republic of Korea), responding to allegations by a number of non-governmental organizations that the detention of certain people by his Government violated their right to freedom of opinion and expression, said that the detained persons had been imprisoned for specific crimes, such as espionage, participation in violent demonstrations and advocating violent revolution. The National Security Law (NSL) was intended not to suppress speech but to punish those who committed acts directly endangering national security.

19. The term "prisoner of conscience" should be clarified and not applied to those who had been charged with such crimes as espionage or had resorted to violence with the aim of overthrowing the Government. The so-called long-term prisoners of war were, in fact, guerrilla fighters who had committed crimes against humanity. They had all undergone a fair trial and were currently serving their sentences.

20. It should not be forgotten that Korea was the only country still divided into two parts as a result of a previous cold-war confrontation. The people and Government of his country hoped that the day would soon come when an improved political and security situation on the Korean Peninsula would make the NSL unnecessary. His Government was committed to the creation of a better human rights environment not only within its territory but throughout the world and would work closely with the Commission to achieve that end.

21. Mr. AKINCI (Observer for Turkey), referring to the comment on missing persons in Cyprus made by a previous speaker, said that the issue of missing persons from the two Cypriot communities had first arisen in 1963, when the Greek Cypriots had attacked the Turkish Cypriots to deprive them of their constitutional rights. Of the 803 missing Turkish Cypriots, 211 had been missing since that date. In comparison with their respective populations, the proportion of missing Turkish Cypriots was much higher than that of Greek Cypriots. Moreover, the missing Turkish Cypriots were all innocent civilians, while approximately two thirds of the 1,690 missing Greek Cypriots had been combatants who had fallen in action and whose bodies had not been recovered. Most of them had been killed during the internal fighting among Greek Cypriots following the five-day coup of July 1974.

22. The Committee on Missing Persons in Cyprus, established in 1981 by an agreement between the two sides, had so far been unable to complete its task because the Greek Cypriot side had consistently put forward demands outside the Committee's agreed terms of reference. The Turkish Cypriot side had been fully cooperative on the issue but the Greek Cypriots, instead of reciprocating that cooperation, had been internationalizing and exploiting the issue for propaganda purposes.

23. Mr. QUAUNINE (Bangladesh), responding to a reference made by the observer for Norway regarding the freedom of expression and security of writers in Bangladesh, said that it was generally acknowledged that his Government respected freedom of speech and tolerated open criticism. In commemoration of Language Day, writers and publishers throughout Bangladesh were currently participating in programmes which celebrated their creativity and freedom of expression while, earlier in the current month, the annual Poetry Festival had been organized in the capital by literary and cultural bodies which were in no way associated with the State or Government. There had been no complaints about the security of writers and there was a constant flow of new titles and emergence of new authors.

24. Recently, however, foreign media had focused attention on Dr. Taslima Nasreen, a Bangladeshi author who had written extensively on social issues with specific reference to women and their place in society. In keeping with the constitutional guarantees of freedom of expression, there had been no Government interference with her numerous publications. One particular book, however, had been banned by the Government because of its potential to promote communal misunderstanding and to incite violence. The book had also been banned by the Government of Sri Lanka on similar grounds. The fact that the protection of the sensitivities of all beliefs was non-discriminatory could be seen from the banning in the late 1980s of the film "The Last Temptation of Christ" on the grounds that it was offensive to the religious sensitivities of Christians.

25. On the question of Dr. Taslim Nasreen's security, the Government had, at her request, provided her with round-the-clock police protection at public expense. A warrant had been issued against her under a section of the Criminal Code which dated back to the days of British rule and stipulated measures against acts "outraging the religious feelings" of any section of the population.

26. Since being granted bail, she had travelled abroad as a free citizen of Bangladesh and had specifically stated that she had not fled the country and was not seeking asylum abroad. The due process of law was taking its course and Dr. Nasreen had been represented in court by her lawyers.

27. It was, perhaps, worthy of note that an article in the International Herald Tribune, on 4 January 1995, had commented that, if the outside world really cared about freedom and democracy in Bangladesh, it would spend less time idolizing Dr. Nasreen, a writer who had exploited the Western obsession with Islamic fundamentalism to win the literary fame that had otherwise eluded her.

28. Mr. BEBARS (Egypt), said he wished to clarify the situation with regard to application of certain laws in his country. Egypt had been one of the first States to accede to the International Covenant on Civil and Political Rights and, on the occasion of the submission of its most recent periodic report to the Human Rights Committee, that Committee had found that the Emergency Law safeguarded the rights and freedoms of individuals and was in keeping with the Constitution.

29. Egypt did not have recourse to special courts; the military courts were permanent courts within the meaning of the 1966 Law, presided over by judges with a high level of expertise, and applied civil jurisdiction. Their proceedings were public, except where extremely sensitive security issues were involved, and provision existed for defendants to appeal against the sentences passed.

30. His Government, which had acceded to no less that 18 international human rights instruments, was endeavouring to combat terrorism within the framework of the Constitution and of its international obligations. Law No. 32 of 1949 organizing non-governmental organizations did not hinder the functioning of NGOs, of which there were more than 15,000 in Egypt. His Government encouraged all sectors of society to work at both the international and local levels, as was demonstrated by the role played by Egyptian NGOs in the United Nations Conference on Population and Development. It was ready to involve itself in an objective dialogue with any NGOs that did not directly or indirectly support terrorism or make unfounded allegations.

31. Mrs. MARKIDES (Observer for Cyprus) said that the "speaker on the issue of missing persons in Cyprus" referred to by the observer for Turkey had been the representative of the only recognized Government of the island of Cyprus. Once again, the representative of Turkey was attempting to turn a human rights forum into a political arena. Despite what he had said, most of the 1,619 missing persons in question were civilians, not combatants who had fallen in action.

32. She referred him once again to the conclusions of the European Commission of Human Rights, which stated: "The Commission, having found it established in three cases, and having found sufficient indications in an indefinite number of cases, that Greek Cypriots who are still missing were unlawfully deprived of their liberty, in Turkish custody in 1974, noting that Turkey has failed to account for the fate of these persons, concludes by 16 votes against 1 that Turkey has violated article 5 of the Convention."

33. The Government of Turkey should put its own house in order before resorting to unfounded allegations. Its violations of human rights in Cyprus - substantiated by independent human rights bodies and by the United Nations - were matched by its appalling record of abuses of human rights and fundamental freedoms in Turkey itself. In a resolution adopted on 16 February 1995, the European Parliament had condemned the grave state of human rights in Turkey, and had appealed to the Turkish Government and to the Turkish Grand National Assembly to undertake a fundamental reform of its Constitution in order to guarantee more effectively the protection of democracy and human rights in Turkey and to contribute to a solution of the Cyprus problem.

34. Mr. KHOURY (Observer for the Syrian Arab Republic) said that, in a statement made at the previous meeting, the representative of the World Organization against Torture had referred to the situation in the Syrian Arab Republic and a number of other third world countries, while avoiding any reference to many countries in which his organization was active.

35. His delegation, which regularly monitored the publications of that organization and had noted that only one case of alleged torture in the Syrian Arab Republic had been mentioned in over a year, was somewhat surprised at the statement. The allegations appeared to emanate from another organization, which singled out a limited number of countries as its targets. If the statement in fact reflected that representative's own personal motives, he was damaging his organization's credibility.

36. The source of the information provided by the International Federation of Human Rights (IFHR) in its written statement (E/CN.4/1995/NGO/23), was the Organization of Committees for the Defence of Democratic Freedoms and Human Rights in Syria (CDF), a Paris-based organization that was financed by a foreign State, some of whose members were being sought by the Syrian judicial authorities. IFHR had for many years been targeting his country with its hostile campaigns. It had published incredible figures concerning the number of prisoners and detainees in the Syrian Arab Republic. Thus, it alleged that 3,000 persons had disappeared, while the Working Group on Enforced or Involuntary Disappearances had referred to only two cases. His delegation had always denied the existence of that phenomenon in his country. The figures concerning "prisoners of conscience or opinion" were likewise wholly imaginary.

37. The members of the CDF referred to had been charged with crimes committed against the internal and external security of the State. Interrogation had revealed that most of the accused were members of terrorist organizations and

that they had been financed from abroad to carry out acts against State security, tarnish his country's image, plot against the Head of State and issue calls for subversion.

38. Those admissions had been made in open court in the presence of representatives of international organizations, and of the defendants' counsel. Some of the sentences passed on that occasion had since been reduced. The allegations regarding torture and the detainees' state of health were also unfounded.

39. Mr. DU Zhongxing (China) said that certain NGOs had mounted a vicious attack on the Chinese judicial system under the current agenda item. They had always been prejudiced against China, and had attacked it by spreading malicious rumours. To give but one example, the so-called expert on education through labour cited by the International League for Human Rights, who claimed to have visited 50 prisons in China, had never crossed the threshold of a single one. His Government had always attached great importance to human rights, and its determination to protect and promote them would never be shaken by the slanders to which it was subjected.

40. Mr. SOKHONA (Mauritania) said that the events alluded to by the representative of one NGO had, in fact, been a mutiny in the armed forces of his country. There had been victims among the loyal forces as well as among the mutineers, and, following an inquiry, those responsible had been punished. Compensation had been awarded to the families of the victims on both sides. The amnesty referred to had been a parliamentary initiative, covering the whole period of the state of emergency and benefiting all those who had been prosecuted for crimes against the security of the State.

41. Regarding the reference by another NGO to Mauritanian refugees, he said that his Government had invited all those citizens who had left the country during the state of emergency to return. That invitation was still open.

42. Mr. CHEPSIROR (Observer for Kenya) said that the representative of the Robert F. Kennedy Memorial Center for Human Rights had referred to a disturbing pattern of human rights violations in Kenya. However, both before and since the multiparty elections of 1992, his Government had striven to uphold the rule of law and respect human rights and fundamental freedoms. Nevertheless, persons who threatened law and order in society and violated the rights of others by word or deed were liable to arrest and prosecution in accordance with the law. No Members of Parliament had been jailed for freely expressing their views.

43. The CHAIRMAN said that the Commission had thus concluded its discussion on agenda item 10.

STATEMENT BY MS. RIGOBERTA MENCHÚ TUM, NOBEL PEACE PRIZE LAUREATE

44. The Chairman invited Ms. Rigoberta Menchú Tum, Nobel Peace Prize Laureate, to address the Commission.

45. Ms. MENCHÚ TUM said that the International Decade of the World's Indigenous People provided an opportunity to find viable solutions to the age-old problems of marginalization, exclusion and racism faced by indigenous

peoples throughout the world. On the eve of the third millennium, it was extremely saddening to note that grave and systematic violations of the inalienable rights of those peoples continued. In some countries, indigenous communities and peoples were in danger of extinction, and in others they were subjected to armed conflicts, a further manifestation of the intolerance of humankind. Some indigenous peoples also endured extreme hunger, a further breach of their most basic rights, and in most cases they were excluded from national development programmes.

46. The international community should acknowledge that that shameful state of affairs constituted a state of emergency and required decisive action if those peoples were not to be exterminated by the end of the century. Preventing the disappearance of the age-old cultures of the indigenous peoples would be a positive contribution to peace and the future of humankind.

47. In some countries, indigenous peoples were flourishing. They made up the bulk of the local population and, in spite of all the obstacles, had made considerable progress in the enjoyment of their economic, political, social and cultural rights. Many initiatives over the years were bearing fruit in the form of valuable experiments that could contribute to a multi-ethnic, multicultural and multilingual future in which peaceful coexistence within pluralistic societies could be guaranteed.

48. In her own country, Guatemala, which had endured more than 34 years of war, there were signs of dialogue and negotiation to achieve a political solution, and a hope that the process would lead to the full enjoyment by the indigenous peoples of their identity and their rights. However, if the ground they had gained was not to be lost, it was essential to support and strengthen their organizational experiments and institutions and to promote conditions in which they could play a full and active part in building the future.

49. One manifest advance in recent years was the achievement of greater national and international public awareness of the rights and values of indigenous peoples. Many countries had recognized the linguistic and cultural diversity of their peoples in their constitutions. Mutual respect between indigenous and non-indigenous peoples was being encouraged and the indigenous peoples' traditional knowledge was being placed at the service of society as a whole. Those encouraging developments showed that the presence of indigenous peoples in a country did not necessarily lead to conflict but could add richness to a nation's identity. She firmly believed that respect for diversity was fundamental to the eradication of racism, xenophobia and intolerance and that ways must be found of eliminating every expression of discrimination against indigenous peoples.

50. An armed conflict had recently broken out in Chiapas, Mexico, in an area inhabited mainly by the Maya indigenous people. The causes of that conflict must be eradicated by means of dialogue and a political solution sought. On the border between Peru and Ecuador, a war was being fought that directly affected the local indigenous inhabitants. That war, too, must end and the

damage done to the indigenous population must be halted. More generally, the impact of armed conflicts on indigenous peoples must be assessed and a mechanism established to monitor violations of their rights and find peaceful solutions.

51. Persons from indigenous communities in 24 countries had recently attended the second Assembly of the Indigenous Initiative for Peace at UNESCO headquarters in Paris. They had established three core objectives in the context of the historic opportunity provided by the International Decade.

52. The first objective was to promote the establishment of a new order in relations between indigenous peoples, Governments and society in general, based on mutual respect and recognition and promotion of the rights of the indigenous peoples at the national and international levels. To achieve that objective, instruments for the verification of indigenous rights and violations of those rights, and to ensure the rights of indigenous peoples through amendment of and effective compliance with national constitutions and respect for international instruments were needed. It was also necessary to devise models of pluralistic coexistence based on the development of the indigenous peoples and to establish relations of equality with the NGOs and international cooperation agencies.

53. The second objective was to support the material and spiritual progress and development of the indigenous peoples by promoting their cultural values and traditions, and by encouraging solidarity and communication among them at the national and international levels. To that end, their organizations must be strengthened and their values and age-old skills used to build a new ethical system governing relations between the indigenous and non-indigenous sectors of society.

54. The third objective was to help prevent conflicts involving indigenous peoples and to promote peaceful solutions to such conflicts throughout the world. To that end, special vigilance was needed to ensure that rights were not violated in potential conflict zones. In that connection, moreover, proposals must be drawn up to deal with border disputes between States that affected indigenous peoples.

55. The Working Group on Indigenous Populations had concluded 12 years of work on the draft declaration on indigenous peoples, and had submitted it to the Commission for adoption. The right to self-determination was the keystone of that draft declaration, and the prerequisite for the respect of all other rights, such as the right to development. The indigenous peoples were currently facing innumerable problems caused by the application of inappropriate development models. In fact, most of the conflicts arising in territories inhabited by indigenous peoples were actually struggles for the control of natural resources.

56. The draft declaration represented the minimum standards required for the protection of the indigenous peoples, for whom there was a close link between human rights, peace and development. Consequently, the Commission should support the draft declaration as one of its first activities under the

International Decade. In that connection, steps must be taken to ensure that indigenous representatives continued to be closely involved in finalizing the draft declaration.

57. The Working Group on Indigenous Populations, the sole body in which indigenous peoples could make their voices heard and exchange ideas with other peoples and Governments, should be given greater support, and she endorsed the suggestion that the Working Group should henceforth include representatives of the indigenous peoples.

58. Several months previously, discussions had begun on establishing a permanent forum in the United Nations for indigenous people, which she regarded as an important initiative. Many indigenous persons were interested in such a body, in which they could participate with Governments on an equal footing. She was pleased to hear that discussions on the forum would be continued at the next meeting of the Working Group in July 1995 and that an expert working group would be established to examine further ideas on the forum put forward by indigenous persons.

59. The establishment of a United Nations voluntary fund for indigenous peoples was of overriding importance for preparing plans and programmes to promote the development of indigenous peoples but the representatives of the indigenous peoples must participate fully in deciding how the resources of the fund were to be used. It was also essential that the regular budgets of both the United Nations and the specialized agencies should earmark resources for the activities of the Decade and that States should allocate sufficient funds to carry out the Programme of Action for the Decade at the national level.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

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(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 11) (E/CN.4/1995/5 and Add.1, 42-45, 46 and Add.1, 48, 49, 50 and Add.1-3, 51, 107, 113 and 147; E/CN.4/1995/NGO/5, 8, 22 and 28)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (E/CN.4/1995/85, 87 and Add.1, 88, 89 and Add.1 and 90; E/CN.4/1995/NGO/10; A/49/635 and Add.1)

60. Mr. DENG (Representative of the Secretary-General on the question of internally displaced persons), introducing his report (E/CN.4/1995/50 and Add.1-4), said that his experience over the past three years reflected a

complex situation with conflicting indicators. The crisis of internal displacement continued to escalate in Bosnia, Burundi, Rwanda and, most recently, Chechnya. Estimates of internally displaced persons currently exceeded 30 million. There had been a growing awareness for the problem, but the international response was still constrained and inadequate.

61. The growing urgency of the problem had been highlighted by field missions, which had focused attention on what had still to be done to provide for the protection and assistance needs of the displaced and had facilitated a constructive dialogue with Governments. It was precisely because of the practical importance of on-the-ground experience that the Commission and the General Assembly had placed emphasis on that aspect of his mandate. To date, he had visited nine countries and produced reports with recommendations for improving the situation of internally displaced persons there. Given the global nature of internal displacement, still more visits were needed. While governments had, on the whole, been responsive, further efforts were essential to facilitate the monitoring of the agreements reached and to encourage practical steps to enhance protection and assistance.

62. Significant progress had been made in the areas of legal standards and institutional arrangements. The debate still continued as to whether existing law provided an adequate basis for a comprehensive system of protection and assistance but a broad consensus had emerged around the Commission's request for a compilation and evaluation of existing law with a view to preparing guiding principles and a code of conduct. The issue of whether or not a legally binding instrument was necessary would be decided in the light of the results obtained.

63. In the broader context, information available from a wide variety of sources must be carefully processed and made available, and that required appropriate skills and functional capacity. There was a clear need for a central point within the United Nations system with the capacity to bring together information on internally displaced persons throughout the world. Collaboration among all the agencies, governmental and non-governmental, whose mandates and activities related to the internally displaced had become the operating principle of the international system. Although there was probably sufficient collective international capacity to meet the challenge, a focal point was still necessary to mobilize and consolidate that potential.

64. The Emergency Relief Coordinator had been assigned the task of coordinating the international response to situations of internal displacement. Within that framework, the mechanism of the Representative of the Secretary-General should in future play a complementary role: the Coordinator's mandate was humanitarian with emphasis on assistance for all the various categories of persons in need, while the Representative's mandate focused more specifically on the internally displaced, emphasizing the protection aspect. The role of the Representative should remain one of an advocate for the cause of the internally displaced.

65. International efforts on behalf of the internally displaced had tended to focus on providing urgent relief assistance, but even more challenging was the need to ensure the basic human rights and security of the affected population,

especially in conditions of internal conflict. Moreover, the protection of human rights was a vital aspect of the overall solution to the root causes of displacement.

66. It was becoming increasingly clear that the internally displaced must be reintegrated into national development programmes. Since displacement uprooted populations, the ultimate solution to their plight must be the normalization of conditions and the rebuilding of their capacity to maintain a self-sustaining livelihood. Consultations had already been initiated on cooperation between the Representative and the United Nations Development Programme (UNDP) for the purpose of producing appropriate strategies in that area.

67. Women and children constituted a particularly vulnerable group among the internally displaced. Although they were by far in the majority, their special needs were often overlooked. Moreover, women, who were often left to care for the young and the old, did not participate at all adequately in the decision-making that directly affected them. In virtually every displaced persons' camp, that he had visited, women had constituted a silent majority. Both the Commission and the General Assembly had requested him to pay specific attention to the protection and assistance needs of women and children, and the extent of the challenge was just beginning to unfold.

68. When he had undertaken his assignment three years previously, he had hoped that the international community would agree on a set of standards and institutional arrangements that would render his position unnecessary after the study phase. Unfortunately, the need for his mandate persisted. It had become clear that studying the problem formed part of the ongoing process of producing normative and operational principles and strategies for addressing the escalating crisis.

69. For that reason, he had undertaken, in collaboration with several academic and research institutions, an in-depth and comprehensive study of the problem in response to the Secretary-General's request. The findings of the study were likely to provide him with a deeper understanding of the problem and thereby strengthen his capacity to contribute effectively to a more concerted international response.

70. In his mandate, the Representative was called upon to perform a wide variety of functions. If he was to do so, the means to implement the mandate must be strengthened with commensurate human and material resources. It was to be hoped that any resolution that the Commission might adopt on the subject would reflect the rising level of awareness in the international community about the crisis of internal displacement and the increasing resolve to do something practical about it.

71. Ms. COOMARASWAMY (United Nations Special Rapporteur on violence against women, including its causes and consequences), introducing her preliminary report (E/CN.4/1995/42), said that, according to United Nations reports, in the year 1992 alone 12,000 women had been raped in the former Yugoslavia; in the United States, a rape occurred every six minutes; in Papua New Guinea, 67 per cent of rural women and 56 per cent of urban women were victims of wife abuse; in Santiago, Chile, 80 per cent of women in a sample survey had been

victims of violence in their homes; in rural Bangladesh, malnutrition had been found to be three times more common among girls than boys; 8,000 to 10,000 girls were brought from Thailand to Japan every year for prostitution and trafficking; given the population figures for India and China, there should be about 30 million more women in India and 38 million more women in China than was actually the case; the UNHCR data indicated that, among Vietnamese boat people, 39 per cent of the women had been abducted and/or raped by pirates at sea; more than 100 million women had undergone genital mutilation in Africa alone; and every minute and a half, a woman was raped in South Africa. Statistics such as those pointed to the scale of violence committed against women in every part of the world. Violence against women was not only an issue of criminal justice but also an infringement of fundamental human rights.

72. As part of her mandate, she would undertake fact-finding missions to specific countries to explore in depth some of the related themes. The field trips would cover the five regions and the countries would be identified accordingly.

73. Another component of her mandate involved the assessment of individual allegations of violence against women and the forwarding of complaints to Governments to seek clarification and to recommend, in dialogue with States, ways and means at the national, regional and international levels to eliminate such violence. The complaints and clarifications would be reproduced in her reports to the Commission.

74. She had set the following priorities for her work: the problem of violence against women in times of armed conflict and violence against women in the family, in the community and perpetrated or condoned by the State.

75. Since the mandate covered such a wide spectrum, she would divide the work in accordance with the themes set forth in the United Nations Declaration on the Elimination of Violence Against Women. Her first report was a preliminary survey of the issues, identifying themes and factors of importance to be followed up later; her next report, to be submitted in 1996, would focus on violence in the family; and her final report, to be submitted in 1997, would be devoted to violence in the community and violence perpetrated and condoned by the State. She also hoped to submit comprehensive recommendations for eliminating violence against women involving both legal and non-legal strategies.

76. On 29 July 1994, a note verbale had been sent out to Governments, NGOs and United Nations bodies and agencies soliciting information. She had received responses from a few Governments, although the scale and quality of information differed widely. She thus requested the Member States that had not already done so to respond to the note verbale by sending her information as soon as possible so that it might be processed and analysed for her next report. While Governments had not been very forthcoming, NGOs and United Nations organs had been extremely helpful. Large gaps still remained in the information-gathering, however, because some regions of the world had less resources and had been able to communicate less effectively. She

therefore urged all Governments and NGOs working in those countries and regions to send her information so that her reports would be truly global in character.

77. Unfortunately, all the special rapporteurs lacked the resources they needed to carry out their mandates. While funding for her own research was available from private donors in the West, she did not wish her reports to be challenged on the grounds of excessive reliance on donor countries. It was imperative, therefore, that Governments increase their support to the Centre for Human Rights and ensure, at the very minimum, that the personnel assisting special rapporteurs remained with them for the full term of their mandates.

78. Her report emphasized the need for Governments to draw up national plans of action to eradicate violence against women, as required by the Declaration on the Elimination of Discrimination against Women. Under such plans, States would commit themselves: to refrain from invoking custom, tradition or religion as grounds for failure to meet their obligations to eliminate violence against women; to ratify the Convention on the Elimination of All Forms of Discrimination against Women, without reservations; to enact laws and administrative measures to deal with the special problems of violence against women; to ensure specialized care and assistance to women victims of violence; to train police and judicial officials to deal more effectively with problems of violence against women; to reform educational curricula, media policy and data-collection strategies to provide a better reflection of the problem of violence against women; and to report to international bodies on the measures adopted. She hoped that the Commission on Human Rights would adopt a resolution calling on the Member States to draw up and implement such plans of action.

79. One of her major priorities was the problem of violence against women in times of armed conflict. It was incumbent on the international community to take steps to ensure that rape and sexual slavery during armed conflict were classified as international war crimes and that the victims of such acts were entitled to compensation.

80. The Fourth World Conference on Women would provide an opportunity for women to plan actions that would give concrete meaning to the concept of women's rights. She would be conducting a series of activities at the Conference and would see to it that her report was widely circulated among the participants. The Commission on Human Rights must assume its responsibilities at the Conference by reaffirming that the human rights of females were an inalienable and integral part of human rights as a whole.

81. Mr. HAREL (France), speaking on behalf of the European Union and of Bulgaria, Hungary, Poland, Romania, Slovakia and the Czech Republic, said that the European Union had played an active part in the establishment of the post of High Commissioner for Human Rights. Since his appointment in April 1994, the High Commissioner had demonstrated his determination to fulfil his mandate by basing his actions on three complementary strategies: cooperation at all levels; a comprehensive and integrated approach to the protection and promotion of human rights; and the implementation of plans and programmes to promote human rights at the international, national and local levels.

82. The High Commissioner, who was responsible for coordinating United Nations activities in the field of human rights, had taken rapid action in that direction by participating actively in the deliberations of the Administrative Committee on Coordination (ACC) on human rights issues. The countries he was representing endorsed the High Commissioner's efforts to initiate a dialogue between human rights structures within the United Nations system. Better coordination and increased cooperation among those structures, including a more rational use of resources and skills, could not but enhance the efforts to promote and protect human rights. In that connection, he stressed the importance of regular meetings between special rapporteurs and treaty monitoring bodies and the need to implement any recommendations made at such meetings.

83. The countries he was representing also supported the initiatives by the High Commissioner to strengthen cooperation with regional organizations working in the area of human rights.

84. The High Commissioner was also mandated to oversee the functioning of the Centre for Human Rights which was itself responsible for coordinating United Nations activities in that area. The Centre's activities had expanded greatly in recent years and would undoubtedly continue to do so. It was, therefore, essential that the Centre should have adequate human and financial resources. There was, unfortunately, an ever-widening gap between the Centre's responsibilities and the meagre resources allocated to it. Without adequate resources, the Centre and indeed the entire human rights programme would be in jeopardy. At the most recent session of the General Assembly, the European Union had requested the Secretary-General to ensure that additional resources for human rights activities were made available for the period 1994-1995. It had also requested the Secretary-General to provide within the biennial budget adequate human and financial resources for the Centre and the High Commissioner.

85. The countries he was representing wished to pay tribute to the efforts of the Assistant Secretary-General for Human Rights. It welcomed the first steps that had been taken to improve the administration and management of the Centre for Human Rights and endorsed the High Commissioner's decision to carry out a full examination of Secretariat structures in the area of human rights.

86. The Centre for Human Rights and the Office of the High Commissioner were the basic pillars of the United Nations system for the protection and promotion of human rights. They must work together to strengthen all human rights efforts, including field activities and technical assistance.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)
(E/CN.4/1995/15 and Corr.1, E/CN.4/1995/16-18 and 115;
E/CN.4/Sub.2/1994/2/Add.1; A/49/444 and 446)

87. Mrs. PINTO (Independent Expert on the situation of human rights in Guatemala), introducing her report on assistance to Guatemala in the field of human rights (E/CN.4/1995/15), said that 1994 in Guatemala had been characterized by two constant features: the peace negotiations and widespread violence.

88. The Framework Agreement for the Resumption of the Negotiating Process between the Government and the Unidad Revolucionaria Nacional Guatemalteca (URNG), concluded in January 1994, had raised great hopes in Guatemala. It had led to the conclusion of a number of important agreements including the Comprehensive Agreement on Human Rights, an agreement on the resettlement of displaced persons and an agreement to establish a commission to investigate violations of human rights.

89. Implementation of the Comprehensive Agreement on Human Rights had begun with the establishment in November 1994 of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA). Unfortunately, it had not been possible to achieve the stated goal of a lasting and sustainable peace by the end of December 1994. The question of the identity of indigenous populations had proved to be a major stumbling block in the negotiating process. Both parties to the conflict needed to reaffirm their willingness to proceed with the peace process, under United Nations guidance.

90. The armed conflict had persisted despite the efforts to achieve peace. The peace negotiations had not yet resulted in the demilitarization of Guatemalan society. In order to strengthen civilian authority in the context of the transition, the military authority had to be brought into line with the requirements of a State subject to the rule of law.

91. The arbitrary and discriminatory practice of forcible recruitment into the armed forces had reached its apex during the early months of 1994. She therefore welcomed the presidential decision of June 1994 that only volunteers would henceforth be recruited until new legislation on military and social service had been adopted. In the light of that decision, the institution of military commissioners, which had been responsible for recruitment and had been accused of human rights abuses, was no longer necessary and should be dismantled.

92. No provisions had been made for the demilitarization of the Presidential General Staff. Intelligence work remained in the hands of the military authorities and the plan to establish an intelligence secretariat as part of the executive branch did not exclude the participation of the military sector.

93. The entry into force of the new Code of Criminal Procedure had helped to limit the scope of military jurisdiction. Nevertheless, military courts still dealt with cases in which there was prima facie evidence that members of the armed forces had been involved in the commission of ordinary offences. Military authorities continued to be closely involved in the judicial process. The entire military judicial system needed to be reformed to bring it into line with the requirements of a State subject to the rule of law.

94. The police system had also to be demilitarized. Three police forces coexisted in the country and their prestige and effectiveness had been called into question by reports that those forces had used disproportionate amounts of force on various occasions. There was clearly a need to establish a single new police force, free from corruption and inefficiency, and operating at the highest professional level.

95. No steps had been taken to counter the actions of the Civilian Self-Defence Patrols (PACs). Although the PACs had been created to serve as counterinsurgency groups, they were known to operate against the civil population. They were in fact an occupation force in their own country. It was not enough to make cosmetic changes and simply rename the groups; they had to be dismantled. Any counterinsurgency and intelligence functions that the PACs were actually carrying out could be assumed by the army.

96. The high level of militarization had not shielded the Guatemalan population from physical violence, which had increased during the past year. Various hypotheses had been proposed to account for that trend. According to the authorities, the violence arose from the social disintegration of the country and the action of groups attempting to destabilize society. There had also been reports of a social clean-up to rid society of its marginal elements.

97. There had been an alarming increase in incidents involving harassment of and death threats to important members of society, including the heads of non-governmental organizations, judges, journalists and academics. Many of the death threats had been carried out. Those actions constituted a well-directed attack on the already strained social fabric of the country. The Government must take action to put an end to those practices.

98. There had been a progressive change in the pattern of human rights violations. Unfortunately, the decrease in reports of enforced disappearances or torture did not signal an end to violations but rather an upsurge in other equally serious acts such as extrajudicial executions, many cases of which remained unresolved. Clandestine graveyards were being discovered almost daily, testimony to the magnitude of the massacres carried out in the 1980s.

99. She was convinced that the President of Guatemala did not endorse a policy of enforced disappearance. Nevertheless, it was a matter of concern that such practices were continuing and that over 3,000 pending cases remained unclarified.

100. Investigations into cases of summary execution and torture continued. The combat against impunity must go beyond talk and result in action: the administration of justice must serve the cause of justice. The new Code of Criminal Procedure was a welcome step in that direction but did not entirely resolve the problem. Judges must be given the means to enforce their decisions and must be protected from harassment. The autonomy and independence of the judiciary must be guaranteed both in theory and in practice, and that included the enactment of appropriate legislation, the creation of a general council of the judiciary, and the establishment of a career track for judges. The autonomy and independence of the Government Procurator's Office must also be ensured.

101. Current legislation pertaining to the penitentiary system was inadequate. The prison system must be run by qualified personnel and based on a legal framework which guaranteed respect for the human rights of both detainees and prison staff.

102. The indigenous population of Guatemala, which accounted for 59 per cent of the total, had never participated in the decision-making process. Yet, it covered the most vulnerable groups, subject to widespread poverty and with very little actual protection of their rights. Under existing legislation, indigenous people had no opportunity to organize politically. The Government had no immediate plans for implementing constitutional standards concerning indigenous populations; nor did it intend to ratify ILO Convention No. 169 (Indigenous and Tribal Peoples Convention). Thus, while the law did not discriminate against the indigenous peoples, it did not protect them either, resulting in a situation of de facto discrimination.

103. The Communities in Resistance (CPRs) had also been excluded from governmental action. The State's civilian institutions had not reached those communities and had not even documented them, with the result that a feeling of insecurity persisted. Those communities were not even recognized as a non-combatant civilian population, as provided for under the Comprehensive Agreement on Human Rights.

104. Refugees continued to return to Guatemala from Mexico, in an irreversible but slow process. In accordance with the agreements concluded, the Government must ensure the security of the returnees and provide them with adequate health services, education, housing and documentation.

105. The widespread poverty affecting the majority of the Guatemalan people was reaching alarming proportions. Steps should be taken to ensure respect for the legislation in force relating to a guaranteed minimum wage and social security. The Government needed to provide easier access to land and institute a more effective system of land distribution. While there had been some small achievements in the areas of health and education, it was not enough to meet actual needs.

106. The situation of human rights in Guatemala continued to require close observation by the Commission on Human Rights. MINUGUA constituted a key element in the peace negotiations and was mandated to follow up complaints of human rights violations. The Commission had a complementary mission: it must examine the situation of human rights in Guatemala and evaluate whether and to what extent it complied with international norms and standards. In that connection, the Commission should continue to support the mechanism by which it received information on the situation in Guatemala.

The meeting rose at 6 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 February 1995, at 7 p.m.

Chairman: Mr. BIN HITAM (Malaysia)

later: Mr. MEGHLAOUI (Algeria)

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(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (continued)

The meeting was called to order at 7.15 p.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION: (agenda item 11) (continued)

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(E/CN.4/1995/5 and Add.1, 42-45, 46 and Add.1, 48, 49, 50 and Add.1, 3, 51, 107, 113, 147; E/CN.4/1995/NGO/8, 22 and 28)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (continued)

1. Mr. DHAKAL (Nepal) said that in recent years there had been increasing focus on socio-economic development and the equality of women. The pursuit of a gender-sensitive approach to human rights testified to a major shift in the international community's perceptions and efforts. Nepal was fully committed to improving the socio-economic, political and legal status of women through legislative measures, development programmes and activities. It had ratified the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Political Rights of Women. The Constitution of the Kingdom of Nepal guaranteed the fundamental rights of both men and women and directed the State to strive to enable women to participate to a greater extent in the task of nation-building by making special provision for their education, health and employment.

2. In order to increase the participation of women in the legislative and decision-making processes, the Constitution required political parties to nominate women candidates for parliamentary elections. Following the restoration of democracy in 1990, women candidates had participated in the parliamentary elections in 1991 and 1994, and some had been elected to Parliament. Sectoral development policies and programmes were currently being carried out with a view to increasing the participation of women in national development.

3. There had been tremendous progress recently in the implementation of United Nations policies to ensure the protection and promotion of the human rights of women. A number of international instruments on women and human rights had been adopted, monitoring bodies established, an international year and decade for women proclaimed, and world conferences convened. Despite those efforts, much remained to be done in order to overcome the obstacles to the full enjoyment of human rights and fundamental freedoms by women.

4. Lack of education, especially in rural areas, denied women full partnership in society, and that issue came high on the international agenda. Though older women made up a substantial segment of the world's population, many of them were economically disadvantaged. In view of current demographic trends, there was an urgent need to protect the human rights of older women by instituting measures to enable them to remain dignified and productive members of society.

5. There was a greater need to alleviate poverty, ensure equal access to health services and strengthen women's ability to enter the labour market and achieve self-reliance. The Fourth World Conference on Women, to be held in 1995, presented an immense opportunity to take stock of and consolidate past achievements and to chart a pragmatic and consensual course of action for the advancement of women in the future. It was not sufficient merely to integrate women into development: their empowerment required social transformation and recognition of their productive potential. Equally important was the development of strategies to increase the number of women in decision-making posts.

6. Increasing violence against women in various parts of the world was a matter of serious concern. His delegation welcomed the appointment of the Special Rapporteur on violence against women and commended her for her first report, which had set out findings on the causes and consequences of violence against women and made a number of preliminary recommendations for eliminating such violence. Consideration should be given to international cooperation in such efforts.

7. Ms. CARRIZONA de LOPEZ (Colombia) said that although violence had been used as a way of solving internal conflicts at certain periods of Colombian history, reconciliation and peace were now a priority for both the Government and the majority of citizens. The Government had launched a programme involving a commitment to defence of human rights, together with an alternative model for development in which social criteria dictated the approach to opening the country's economy to international markets.

8. Much of the violence to which Colombians were subjected arose from the ongoing armed conflict. The Government had, however, made progress in dealing with the problems of extrajudicial execution, disappearance, torture and impunity. The police force had been reorganized and improved internal disciplinary measures established. As a result, nearly 800 cases had been dealt with, 40 per cent of them culminating in disciplinary action. A reform of the Military Code of Criminal Justice was under way. Human rights bureaux had been created within the armed forces and regional police headquarters. Additional Protocol II to the Geneva Conventions of 12 August 1949 had been ratified and the President had expressed his willingness to accept national or international supervision in order to verify compliance with the commitments thereby undertaken.

9. In order to put an end to impunity, a number of measures giving priority to investigations of human rights violations had been launched. Progress was being made on a bill for the establishment of a single disciplinary code for members of the armed forces, under which genocide and disappearance would become extremely serious offences and any official under investigation would

be suspended for six months in order to prevent interference in the investigation. A commission had been set up to investigate the events in the town of Trujillo between 1988 and 1990. Upon receiving the commission's report, the President had acknowledged the responsibility incumbent on the Colombian State for the actions or negligence of public officials during those events. The Government had accepted economic responsibility and had committed itself to submitting legislation to Congress to provide for compensation of victims. It had undertaken to adopt broad social welfare measures in memory of those who had disappeared and to erect a monument to all the victims. The Government hoped that its attitude would serve as an example to all public officials of its unwavering commitment to human rights.

10. Those measures coincided with work on a bill which would enable the Ministry of the Interior to act as an interlocutor with towns and administrative districts in resolving social conflicts. Public order, peace, coexistence among citizens, human rights and ethnic minorities would fall within the competence of the new ministry.

11. The vigilante groups wrongly referred to as "paramilitary units" were another consequence of the armed conflict and the use of violence by drug traffickers, and were being targeted within the overall strategy to combat violence. Measures implemented under that strategy included encouraging the Procurator-General to adopt effective measures to act against such groups, including establishing special units for investigating and punishing their crimes and developing and applying a policy of specific legal action against members of such groups. It was hoped that the strategy would be reinforced by a General Disarmament Act to be submitted by the Executive to Congress.

12. The Government's activities also covered educational and preventive measures and cooperation with international bodies devoted to the defence of human rights. The curriculum in police training courses had been revised to accord more time to the subject of human rights and international humanitarian law. Information campaigns for all police officers were being carried out. In 1994, the Representative of the Secretary-General on internally displaced persons, the Special Rapporteur for extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture had visited Colombia and had had the opportunity to speak with the authorities and victims and with non-governmental and governmental organizations. The reports on those missions gave the Commission a better idea of the complexity of Colombia's problems and the extent of the violence afflicting it.

13. Further visits by special rapporteurs could be so organized as to ensure a continuous exchange of information and follow-up. A committee of high-level civil servants would be set up to study and implement the recommendations of United Nations human rights bodies and to furnish such bodies with periodic reports. Its efforts would focus on violence against highly vulnerable groups such as political opposition groups, trade unions and indigenous leaders. The Special Rapporteur on the independence and impartiality of the Judiciary, jurors and assessors and the independence of lawyers would soon be invited to visit the country.

14. The High Commissioner for Human Rights had accepted the Government's invitation to visit Colombia and analyse the situation there. Her Government had requested assistance from the Centre for Human Rights for a project under which a member of the High Commissioner's staff would be delegated to work with Colombian authorities in evaluating the main areas where work needed to be done. Assistance in the reform of the Military Code of Criminal Justice was paramount for the Government, and to that end it had set up an inter-agency commission with participation by non-governmental organizations (NGOs).

15. The Representative of the Secretary-General on internally displaced persons had recently attended a seminar convened by the Government in conjunction with various NGOs for the purpose of studying and identifying measures required to deal with the problem of displaced persons. In acknowledgement of Amnesty International's efforts to promote human rights, the Government had invited it to open an office in order to facilitate continuous monitoring of the country's situation.

16. Turning to the second focus of government efforts to achieve peace, namely social reform, she said that one of the objectives was to meet the needs of the poorest and most marginalized sectors of Colombian society. The Government had submitted to Congress a series of amendments to the national budget, including a significant increase (20 per cent) in the overall budget for the purpose of redirecting public spending towards social priorities. The establishment of a "social solidarity network" should result in concrete and direct support for the most vulnerable sectors. During the current administration, such efforts had been allocated over 1 per cent of GDP. By the end of the administration's tenure, in 1998, spending on education would amount to 4.8 per cent of GDP and on public health nearly 5 per cent, representing an increase of around 50 per cent compared with the preceding period.

17. The Family Welfare Institute would be combating the problem of street children by providing full support for 15,000 youngsters. New housing was to be built in urban areas and 1 million hectares would be allocated in rural areas as a way of solving the problem of housing and small-scale land ownership.

18. The overall objective was to ensure that social policy did not remain a poor relation of economic policy. One of the obstacles to attainment of that objective was the ongoing domestic political debate which, while it was one of the strengths of Colombian democracy, nevertheless affected the implementation of the social programme.

19. The policy of peace represented an appeal to broad sectors of Colombian society. The Government's task was to meet legitimate concerns through a policy of dialogue and in a context of tolerance.

20. Mr. HUSSAN (Sudan) welcomed the report by the Representative of the Secretary-General on internally displaced persons and hoped the Commission would extend his mandate so he could continue to apply his objective and balanced approach to the problem of displacement and internally displaced persons, a problem which greatly concerned the Sudanese Government.

The underlying causes of displacement in the Sudan included drought, desertification and the unjust war in the southern part of the country. The Government had established a capable and effective mechanism to deal with displacement issues and to coordinate assistance from international agencies and NGOs. A number of governmental bodies had been working to find adequate housing for displaced persons and to ensure their stability and well-being.

21. While making tireless efforts to achieve the resettlement of displaced persons, his Government was seeking a comprehensive solution through efforts to restore peace in the south of the country and to conduct negotiations with dissident factions. Political observers, the international community and NGOs were well aware of those efforts, which had included two rounds of talks in Nairobi, talks sponsored by the Nigerian Government and negotiations currently in progress. Considerable progress had been made, but the dissident factions had been under external pressure to call for secession, and their insistence on partition had been a stumbling-block to achieving real peace.

22. His Government's commitment to peace and stability offered new and valid prospects for achieving that noble objective through the involvement of large numbers of Sudanese politicians and citizens in the peace process. Conferences had been organized and a Higher Council of Peace had been formed with the support of thousands of returnees. "Peace villages" had been established and stability projects launched in all southern regions. Those efforts had culminated in the institution of a federal Government and the division of the Sudan into 26 states, 10 of which were in the south.

23. The international community's responsibility for displaced persons was a humanitarian one emanating from the links between the countries of the world and based on a common desire to provide displaced persons with the same living conditions as those enjoyed by the world's other citizens. That could be achieved only by combining international efforts with those of local Governments. It was therefore essential to establish cooperation between the host country and the relevant international organizations so that the country could receive the necessary assistance in enabling displaced persons to revert to a stable lifestyle.

24. The Sudan had had unique experience in cooperating with international organizations that provided humanitarian aid to displaced persons. With no preconditions except that national sovereignty, security and legislation should be respected, the Sudan had opened its doors to NGOs, which had given generous donations to displaced persons located there. An example of such actions was the "lifeline agreement" concluded between the Sudanese Government and UNICEF. He paid a tribute to the late Mr. James Grant, Executive Director of UNICEF, who would always be remembered with affection in the Sudan for his broad-mindedness and patience. He also paid tribute to the International Committee of the Red Cross for the efforts it had made under the agreement concluded with the Sudanese Government.

25. Other countries could learn a great deal from the Sudan's experience, and it was ready to offer its assistance if circumstances so required. Its work on the resettlement and repatriation of displaced persons testified to its desire to cooperate with international organizations. The peace villages constituted an excellent example of success in such efforts, and he wished to pay a tribute to the work done by CARE in that context.

26. His Government's willingness to cooperate with the international community and NGOs was likewise demonstrated by the estimated 62 per cent increase in 1994 in the provision of international humanitarian assistance, compared with the level of 1993, and the growth to 122 in 1993, compared with 21 in 1992, in the number of corridors for relief operations. UNICEF's programmes to enable returnees to produce their own food had resulted in a 17 per cent rate of food self-sufficiency in the south of the country; UNICEF was also carrying out programmes to eradicate the Guinea worm. There were promising statistics for agricultural production, particularly that of grain and it was to be hoped that donors would use that information in channelling their assistance for the rehabilitation and resettlement of displaced persons. He particularly welcomed paragraphs 62 to 69 of the report of the Special Representative (E/CN.4/1995/50).

27. Grave violations had been committed by dissident factions against unarmed citizens and peaceful tribes: people had been robbed, old men killed, women raped and children abducted for service in rebel forces. Even the dissident factions themselves had admitted responsibility for those atrocities, as attested to in reports of such organizations as Amnesty International and Africa Watch. Dissident groups had also intercepted relief trains and ships and looted relief supplies. He mentioned those issues in order to underline his Government's conviction that cooperation between international and non-governmental organizations and the Sudanese Government and local authorities was the only way of ensuring the provision of assistance to those in need, the fair distribution of supplies and the achievement of a decent standard of living for displaced persons.

28. Voices had recently been raised in many forums in favour of enabling the international community and NGOs to furnish protection for internally displaced persons, on the grounds that displacement was analogous to refugee status. But a displaced person was someone who moved within the borders of his homeland owing to natural disasters or internal strife. He was free to travel and settle wherever he wished. Consequently, he was bound by national legislation and was entitled to the rights and duties of citizenship. Responsibility for his protection fell squarely on the State, without any need for international involvement. A refugee had an entirely different status: he sought asylum in a foreign country and thereby became subject to international legislation governing refugees. He was under international protection while travelling, and had all the more need for such protection since he had lost that of his native land.

29. To accord international protection to internally displaced persons would give rise to complications, run counter to the machinery governing assistance for refugees, contravene national legislation and be tantamount to intervention in the internal affairs of States. In view of the vague manner in which the issue had been presented by some circles, and in the light of

certain recent events that had led to foreign intervention, his Government feared that the call for international protection was designed to mask hostile political intentions.

30. His delegation took the view that responsibility for displaced persons who remained within their own national borders lay with their Governments, which were better able to enforce law and provide the necessary assistance. Governments could also cooperate with the international community in delivering humanitarian assistance, as well as helping displaced people to resettle, as the Sudan had done by establishing peace villages in the south of the country. The primary responsibility of the Government was not altered by the fact that UNHCR and other international agencies also had an important role to play. His delegation therefore took issue with the view that delivery of international aid might be hindered if displaced people remained within the jurisdiction of their own Governments. That was not the case in the Sudan, whose Government, like most others in the same position, was not hostile to outside aid. Nor could the suggestion that displaced persons did not enjoy adequate housing, health care and other services be taken at face value.

31. Among the main causes of displacement were natural disasters and low levels of socio-economic development, which sometimes led to armed conflicts. The Sudan was making great efforts to improve environmental conditions and to return displaced persons to their homes, and the competent authorities were providing vocational training to help them find employment. It therefore requested the international community to intensify its efforts to assist in resettlement, the construction of schools and medical facilities, and the occupational retraining of displaced persons.

32. Mr. KUZNIAR (Poland), speaking on agenda item 11, drew attention to the serious difficulties in defending human rights in those situations not adequately covered by international humanitarian law or human rights instruments. The problem had assumed major proportions as internal conflicts and disturbances had proliferated following the end of the cold war. As the Secretary-General had emphasized in a statement made on 29 October 1994 in Bucharest, such conflicts now posed the biggest threat to international peace and human rights and called for new responses and new solutions. The international community, through the United Nations, was being increasingly drawn into those conflicts and called upon to play a variety of roles, including that of human rights protector. It had become clear that international institutions were least efficient when confronting human rights violations, and recent situations had shown up the weaknesses of humanitarian law and human rights instruments in dealing with violations arising from internal conflicts, as well as the inadequacy of the traditional means by which international humanitarian law and human rights instruments were implemented. It was clearly time for the international community to unite and strengthen its efforts in that area.

33. A first step would be for all States to accede to all the major United Nations treaties and the Geneva Conventions and Protocols. Such a step should not be confined to a purely formal acceptance of a treaty, but extend to the internalization of international human rights standards by all the administrative bodies of the State and by its people. Governments and public bodies should be obliged to disseminate information on human rights through education and the media.

34. Another important measure would be to improve early-warning mechanisms which might help to avert imminent conflicts and their associated human rights violations. Such early warnings had sometimes been ignored, as in the case of the warnings given by the Special Rapporteur on summary executions concerning potential conflicts and massacres in Rwanda.

35. In the view of his delegation, the demand for a thorough review of all the procedures for monitoring compliance with human rights standards and for remedying and preventing grave human rights violations was entirely justified. Those measures should include provisions capable of deterring individuals from perpetrating such violations and preventing States from tolerating such abuses, thereby removing the impunity which often helped to perpetuate them. Suitable deterrents during times of conflict included diplomatic and economic sanctions imposed under international law, various forms of political, economic or other pressure on persistent violators, and appropriate arms export and control policies. Other measures available to the international community which could be applied after a conflict had finished included an unequivocal commitment by Governments to prosecute or extradite perpetrators, to establish permanent criminal jurisdiction for the prosecution of violators of human rights and humanitarian law, and to equip that jurisdiction with all necessary funding, logistical support and expert assistance. In addition, the international criminal tribunal, when established, should be given the full support of all United Nations bodies and have an immediate reaction capability; it was essential to avoid repeating mistakes made during the early stages of the conflicts in the former Yugoslavia and Rwanda, where much important evidence of crime had been irretrievably lost.

36. Human rights should be a major element in any peace talks and peace-keeping operations from the very outset, but that had not always been the case. Humanitarian assistance, although vitally important, was not in itself a substitute for mechanisms which might prevent further human rights violations.

37. His Government supported both the rationalization of existing mechanisms and procedures, and the development of new ones. While efforts should be concentrated on improving monitoring mechanisms and on the effective prevention of violations, there were manifest deficiencies in the content of such human rights standards as did apply to situations not covered by humanitarian law or the principal international human rights instruments. A "grey area" existed in which, for example, it was possible for Governments to claim the non-applicability of particular human rights standards to internal conflicts. Consideration therefore needed to be given to promotion of the concept of minimum humanitarian standards which would be applicable in all situations, irrespective of the legal status. Such standards would apply impartially to all persons, groups and authorities involved in a particular

conflict. In order to start consultations on that proposal, his Government was co-sponsoring an appropriate draft resolution to be submitted at the present session of the Commission.

38. In the same context, he drew attention to the concept of the Agenda for Human Rights which Poland had launched at the World Conference on Human Rights and whose relevance had been confirmed by a number of current situations in which international humanitarian law was difficult to enforce. That Agenda could be regarded as the means by which the Agenda for Peace and the Vienna Declaration and Programme of Action might be extended to those difficult situations.

39. In his speech in Bucharest, the Secretary-General had said that the new diplomacy of democracy and human rights existed only in outline; it was Poland's wish that that outline should be transformed into comprehensive and consistent guidelines in order to assist the United Nations and its Member States in their actions and policies.

40. Mr. SINGH (Pakistan), speaking on agenda item 11, said that the adoption of the Vienna Declaration and Programme of Action and the establishment of the post of High Commissioner for Human Rights together constituted an important turning-point in the quest for global and national means of promoting and protecting human freedoms and welfare.

41. As the United Nations system of monitoring human rights continued to evolve, it was important to ensure that all parts of the system shared the same fundamental premises and operated on the same principles. In some cases, its reaction to specific human rights violations had been excessive, while other, far more serious violations had been met with near silence. There was a clear need for greater uniformity and consistency in the way the United Nations responded. One way of achieving that might be to make wider use of fact-finding missions, which should have the freedom to travel and conduct independent inquiries in order to submit reports to the Commission. In cases of grave human rights violations, the Commission should be empowered to convene a special session, as had been the case with the former Yugoslavia. It was to be hoped that improvements in human rights reporting and monitoring mechanisms would greatly contribute to the effective functioning of the United Nations system as a whole.

42. Turning to the human rights situation in Pakistan, he said that, in its endeavours to protect the rights and freedoms of its citizens, the Government had established a "Human Rights Cell", headed by a human rights activist. The Government was aware of the need to strengthen domestic laws protecting the basic rights of society's more vulnerable groups, such as children, women and minorities.

43. Pakistan was a signatory to the Convention on the Rights of the Child. The Government was serious in its commitment to eradicating child and bonded labour, and the Senate Human Rights Committee had accorded the highest priority to the question of children's rights. Pakistan was also deeply committed to the protection of women's rights by repealing or amending laws which might result in discrimination against women.

44. In Pakistan minorities formed an integral part of the cultural and social fabric. The Government was fully aware of the need to create an environment in which their rights would be respected, in keeping with the spirit of the Nation's founder, Quaid-e-Azam Muhammad Ali Jinnah, who had stressed the unity of all Pakistanis. The Government was deeply concerned about the menace of extremism, which threatened to create divisions between the various minority communities that had hitherto lived in social and cultural harmony, and would not allow extremists to jeopardize that tradition of peaceful coexistence. Its determination was inspired not only by international concern but also by the desire to create in Pakistan the tolerant and peaceful society envisaged by its founder.

45. Mr. REZZAG-BARA (Algeria), speaking on agenda item 11, said he wished to draw the Commission's attention to some of the achievements of the Observatoire National des Droits de l'Homme (ONDH) during the recent difficult period and reaffirmed his delegation's conviction that the restoration of civil peace could be achieved only through respect for the law and for the basic liberties of all the country's citizens. ONDH was composed of representatives of the public authorities and civil society; it was an independent body responsible for monitoring and assessing the human rights situation in Algeria. It submitted an annual report to the Head of State, who was constitutionally the guarantor of the rights and liberties of the country's citizens. In its 1993 report and in a memorandum for 1994, it had expressed its main concerns and made a number of recommendations based on petitions and documented cases which had come to its attention.

46. The transition to democracy, which had been initiated by the adoption on 22 February 1989 of a new Constitution, had been hampered by the intransigence of certain groups hostile to the development of pluralism and by the emergence of a radical Islamic political movement. From 1990 onwards, a violent struggle for political supremacy had begun, and in 1991 armed groups loyal to the Islamic movement had initiated direct action; they had stepped up their activities after the suspension of the electoral process on 9 January 1992. Following the declaration of a state of emergency, ONDH had set up appropriate monitoring and early-warning mechanisms in order to respond to the new situation. Thanks to its efforts, the practice of administrative detention, which had affected nearly 10,000 people, had been reviewed; most of the detainees had been released and the security centres closed.

47. With regard to documented excesses which had been observed in the application of security legislation, ONDH had defined procedures to ensure respect for specified detention periods and to make available judicial information on cases of alleged abuse or of suspicious deaths following the improper use of firearms by law-enforcement officials. It welcomed recent legislation abolishing the special courts established under special anti-terrorism legislation. That step had fulfilled the wish of ONDH and had recently been strengthened by an amnesty law aimed at reintegrating persons willing to renounce violence into the community.

48. However, the fact remained that violence was a daily reality for Algerians, although it did not amount, as some had claimed, to civil war or religious war; it betokened a political crisis made more acute by the rise of

extremism, which in its most dangerous form jeopardized national unity and diminished the chances of building a republican and democratic State. The fundamental character of the totalitarian and absolutist society which the extremists sought to impose could be judged by their targets: magistrates, human rights activists, Muslim and Christian clergy, intellectuals, trade unionists, artists and members of the profession, as well as ordinary men, women and children killed in terrorist outrages. Over 215 women had been murdered by armed extremist groups, sometimes after being abducted and raped; women, especially workers or teachers, were particularly vulnerable to the menace of terrorism. As well as sabotaging the economic infrastructure, armed extremist groups had attacked education by trying unsuccessfully to prevent the return of school and university students and by setting fire to more than 600 school buildings.

49. Despite its sufferings, however, the country was alive, functioning and full of hope. An awareness of national identity had been forged in the long struggle for national liberation, and would now be tempered by the current ordeals so as to form a new sense of citizenship. The Observatoire National des Droits de l'Homme, by helping to establish various human rights monitoring and protection mechanisms, was fully involved in that process. At the same time, it fully subscribed to the principles of the Universal Declaration of Human Rights and other international instruments, which served as a fundamental frame of reference, and wished to develop all forms of cooperation with international organizations and national institutions. For that reason, it endorsed the report of the Secretary-General (E/CN.4/1995/48) submitted to the present session pursuant to Commission on Human Rights resolution 1994/54, which advocated closer links between national institutions and the meetings and work of the United Nations relating to human rights.

50. Ms. ESCOBAR (El Salvador), speaking on item 11, commended the preliminary report (E/CN.4/1995/42) submitted to the Commission by the Special Rapporteur on violence against women. The report provided a general overview of the situation, but also included a number of more specific indications of the causes and consequences of such violence.

51. Discrimination and violence against women were contrary to the United Nations Charter and the Universal Declaration of Human Rights. More recently, the World Conference on Human Rights had solemnly proclaimed women's equality of rights, including their right to participate fully in all the activities of the United Nations. It was to be hoped that subsequent reports would include specific proposals and recommendations in that area. Her delegation endorsed the specific request made to the Commission that the preliminary report should be submitted to the fourth World Conference on Women to be held in Beijing.

52. The causes of violence against women were many, varied and far-reaching. They were rooted in historical inequalities, in educational systems in whose making women had little hand, in domestic and family circumstances and in conditions of migration. The situation was complex and daunting, perpetuated as it was by a multitude of attitudes which needed to be remedied in a

concerted effort to eradicate violence against women throughout the world. The Salvadorian delegation congratulated the Special Rapporteur on her work during the first year of her mandate, and looked forward with interest to the recommendations and content of her future reports.

53. Another area of particular interest to El Salvador was that of education and human rights. In 1994, the Commission had adopted resolution 1994/51 proclaiming a "decade for human rights education". The General Assembly had subsequently endorsed the idea by adopting its own resolution 49/184. Education was nothing less than an integral part of the process of promoting and defending human rights.

54. The report submitted by the Secretary-General on the preparation of a plan of action for the United Nations Decade for human rights education (A/49/261/Add.1) provided specific guidelines which could be the basis of a common and universal language of human rights. The report defined human rights education in terms of training and the dissemination of information aimed at creating a universal culture of human rights, strengthening respect for human rights and fundamental freedoms, and allowing human beings to develop fully and with dignity. Those principles appeared to provide a sound basis for further action and were in full conformity with universal human rights standards.

55. It was vital for the success of the proposed Decade that those involved should coordinate their efforts. In that context, the High Commissioner for Human Rights and the Centre for Human Rights would both have to play a leading part. Her Government hoped that the Commission would adopt a resolution on the Decade for human rights education as an important step towards ensuring its success.

56. Mr. DAYAL (India) said he was somewhat disappointed that the report of the Secretary-General (E/CN.4/1995/48) had elicited a written response from only six States and five national institutions on a matter that could be of importance to the growth of a human rights culture around the world, namely, the manner of associating national institutions and the possible ways in which they could participate in United Nations meetings on human rights.

57. One conclusion to be drawn from the desultory response was that practical efforts to create institutional structures to further human rights sometimes became bogged down in debates and the politicization of human rights matters at the international level. Secondly, the report showed that comparatively few national institutions conformed to the principles adopted by the General Assembly in resolution 48/134. Thirdly, it showed that States had thus far paid scant regard to the participation of national institutions in United Nations forums or to the forms that participation should take. Such shortcomings were troubling, because one of the most fundamental difficulties facing human rights activists was how to give meaning and reality to universal principles at the national level in a way that was sensitive to local conditions.

58. The National Human Rights Commission of India would like to see national institutions participating in their own right when the Commission on Human Rights considered an item of concern to them. National institutions should

participate as they had done at the World Conference on Human Rights in Vienna in 1993; in other words, they should be given the floor immediately after States. There should also be a procedure whereby national institutions could participate every other year in the Third Committee of the General Assembly when the item concerning them was included in the Assembly's agenda.

59. With regard to the recommendations made by the Secretary-General in paragraph 36 of his report (E/CN.4/1995/48), the National Human Rights Commission of India endorsed the view that, if the Commission on Human Rights decided that national institutions should participate in meetings of United Nations bodies, it should pronounce on the conformity of those institutions' structure and operation with the Principles relating to the Status of National Institutions as adopted by the General Assembly in resolution 48/134 of 20 December 1993. Similarly, note had been taken of the stipulation in paragraph 36 (b) that "The Commission on Human Rights should be informed whenever a national institution is established so as to be able to accord it the appropriate status, after seeking the opinion of the Coordinating Committee of National Institutions." It was the view of the National Human Rights Commission of India that the work of the Coordinating Committee should not be politicized. Therefore, a decision on whether or not to accord an appropriate status to a national institution should rest clearly with the Commission on Human Rights, regardless of whether or not it sought an opinion from any other entity.

60. The Indian Commission fully supported the role envisaged for the Coordinating Committee of National Institutions as set forth in paragraphs 5 and 9 of Commission on Human Rights resolution 1994/54. National institutions and their Coordinating Committee could play a valuable role, in cooperation with the Centre for Human Rights, in providing technical assistance for States wishing to establish or strengthen their national institutions. Bilateral discussions and arrangements between national institutions were also extremely useful, as experience had shown.

61. The National Human Rights Commission of India, which had been established in 1993, was a statutory and autonomous body. It had its own secretariat and investigative staff, and was financially independent. It had extensive powers of investigation and was responsible for keeping both Parliament and the public fully informed of its work. It had concentrated on strengthening civil liberties in India and actively opposed certain legislation which it felt undermined fundamental human rights. It was doing its utmost to eliminate cases of custodial death and rape, and to ensure that the guilty parties were punished. It had recommended to the Prime Minister that India should become party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Government's decision would be announced shortly.

62. Since the Commission had been set up, some 6,000 complaints had been brought to its attention. They related to every aspect of the human rights situation in India, from the conduct of the armed forces and police, torture, child labour, the abuse of women and the rights of disadvantaged members of society, to the difficulties of minority communities and environmental issues. The Commission was focusing particular attention on child labour and was encouraging the formulation of projects for the elimination of child labour

and the introduction of compulsory primary education for all children in India. As human rights literacy was also a key component of the Commission's work, efforts were being made to revise the educational system from primary school to university level. The security forces and police were also reviewing their training methods, with the encouragement of the Commission.

63. India was a vast and diverse country. The Commission had therefore found it necessary to travel to the various States to see at first hand the conditions on the ground. As the Commission on Human Rights was aware, the most complex situation existed in Jammu and Kashmir. Representatives of the National Human Rights Commission of India had visited the area but, unfortunately, had been prevented from carrying out a thorough investigation. However, several individuals had managed to meet representatives of the Commission and every complaint was being examined. The Commission had informed his Government that national and international NGOs should be permitted to visit the area. The Commission had obtained a list of detainees in Jammu and Kashmir who were being held under the Terrorist and Disruptive Activities (Prevention) Act, which it opposed, and the Public Safety Act. Similarly, details of action taken against errant members of the Border Security Force had been compiled. The National Human Rights Commission of India was thus doing its utmost to promote and protect the rights of all the peoples of India and to ensure respect for the dignity and worth of each of its citizens.

64. Mr. MATHIASON (Division for the Advancement of Women) said that when the human rights regime had been founded, one of its basic principles had been the integration of women's human rights. The Economic and Social Council had created a Commission on the Status of Women, which enjoyed parity with the Commission on Human Rights, to ensure that women's issues were given the attention they deserved.

65. The integration of women's rights had, in recent years, been galvanized by the World Conference on Human Rights held in Vienna in June 1993. It had requested that "steps should also be taken by the Division for the Advancement of Women in cooperation with other United Nations bodies, specifically the Centre for Human Rights, to ensure that the human rights activities of the United Nations regularly address violations of women's human rights, including gender-specific abuses." The General Assembly, in its resolution 49/161, had called on the Secretary-General to report to the Commission on the Status of Women on how that should be done. The Division was working closely with the Centre for Human Rights on the preparation of that report. The report would emphasize the need for institutions into which matters of concern to women were to be integrated, to be aware of the importance of gender in their work, and the need for the involvement of an institution which was in a position to provide information, advocacy and monitoring.

66. The first task of the Division for the Advancement of Women was to provide information. It had routinely provided information on the situation of women to the Committee on the Elimination of Discrimination against Women, to assist it in its reviews of reports submitted by States parties. The Division intended to provide the same service to other human rights treaty

bodies. Its aim was also to elicit information from States in which there were more boys than girls in education, where women were paid less than men for work of equal value, where fewer women than men were found in political decision-making and where women were more subject to violence than men.

67. Procedures had been established to pass on information to the Special Rapporteur on violence against women and similar steps could be taken for the benefit of other human rights mechanisms. However, providing information about problems was only the first step; solutions must also be found. The Division would make available to human rights institutions its analyses which sought to identify, on the basis of national experience, efficient policies and programmes.

68. Following the fourth World Conference on Women, the Division would be in a perfect position to assess how the advancement of women was being addressed across the board. At the Conference, the Division would propose that annual monitoring reports be prepared for the Commission on the Status of Women, showing the extent to which human rights mechanims regularly addressed violations of women's rights, including gender-specific abuses. The reports could also be made available to the Commission on Human Rights.

69. Member States should recognize, in practice, the importance of gender in all human rights work. Similarly, all members of the Secretariat should ensure that the equal enjoyment of equal rights by men and women was a central part of their efforts. Combined efforts were needed to achieve one of the purposes for which the United Nations had been created, namely, "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women".

70. Mr. VALENTINO (Observer for Malta) said that almost five decades had passed since the adoption of the Universal Declaration of Human Rights, pursuant to which the States Members of the United Nations had pledged to work towards the promotion of universal respect for, and observance of, human rights and fundamental freedoms. In recent years, particularly since the end of the cold war, certain regions and countries had found themselves facing profound political, social and economic changes which inevitably had an impact on mankind itself. Those momentous changes had, in some cases, led to conflict and serious violations of human rights. Human rights abuses had, in many instances, also given rise to internal conflict, ethnic strife and the massive displacement of populations. Human rights could not be enjoyed in situations where political freedom was limited. There could be no just economic or social progress without a democratic system that was in a position to respond to the aspirations of the people for sustained human development.

71. Malta remained concerned about the situation in certain countries where there were missing persons, refugees and internally displaced populations. One example was Cyprus, which was still confronted with a long-standing problem that had arisen when the country had been partitioned. Malta reiterated its support for the continued efforts of the Secretary-General of the United Nations to find a concrete solution to the situation in Cyprus through the effective implementation by all parties concerned of the relevant United Nations resolutions, particularly those of the Security Council and the Commission on Human Rights.

72. The Commission had been established with a clear and precise mandate, namely, to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small. At a time of upheaval and turbulence in the world, the Commission needed to increase its strength and credibility. Although many human rights treaties had been negotiated under the auspices of the United Nations, it was a recognized fact that situations in which human rights were violated were not resolved merely by accession to international instruments. Economic sanctions had often been proposed as a way to punish regimes that failed to respect human rights. However, when imposing such sanctions, due care should be taken to ensure that they were not counterproductive and that they were directed towards the offending party.

73. The Commission and the Centre for Human Rights could take a number of specific measures to improve the effective enjoyment of human rights and fundamental freedoms. First, the Centre should play a more active role in identifying and publicizing violations of human rights throughout the world, in cooperation with other international organizations, Governments and NGOs. The Commission should look at ways in which that role could be strengthened, and how the General Assembly and the Security Council could become more involved. Secondly, increased emphasis must be placed on preventive measures, such as technical assistance and human rights education programmes. Similarly, cooperation with other international bodies, such as the International Labour Organization and the International Committee of the Red Cross, should be strengthened. Thirdly, the role of NGOs in the defence of human rights should not be underestimated and the possibility of organizing NGO forums prior to sessions of the Commission could be explored. Fourthly, ways and means of monitoring violations of human rights must be improved. High-risk situations should be under the constant surveillance and scrutiny of the United Nations through its representatives and monitors working closely with other international organizations, NGOs and community groups in the field. The reluctance of certain Governments to accept monitors needed to be overcome. United Nations reports on human rights should be widely accessible and publicized in the media. Fifthly, regional meetings, including those which had been held prior to the World Conference on Human Rights, often highlighted important areas of concern with regard to human rights issues. Regional meetings should be held periodically through the creation of regional commissions for human rights, which could then report to the Commission on Human Rights. Sixthly, the Centre for Human Rights should give further consideration to the establishment of a corps of regional and country expertise, as recommended in the note by the High Commissioner for Human Rights (E/CN.4/1995/5). Seventhly, membership of the Commission on Human Rights should be open to all States Members of the United Nations. In that way, countries which were not members of the Commission and had taken the necessary measures at the national level to protect and promote human rights, which were States parties to most of the major international human rights instruments and which had integrated those instruments into their national legislation could serve on the Commission. Malta was a case in point, as it was a State party to all the major human rights treaties. In December 1994, Malta had acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights relating to the abolition of the death penalty. Eighthly, adequate human and financial resources were required in order to enable the High Commissioner for Human Rights to make his mandate

more effective and action-oriented, to set policy directives and to permit the Centre for Human Rights to implement those policies. The Secretary-General should consider ways of making adequate arrangements within the Organization to increase such resources substantially.

74. In 1995, his Government intended to establish the Office of the Ombudsman, responsible for investigating administrative actions which were taken by or on behalf of government departments, local councils and other public authorities. The ombudsman would enjoy extensive powers to back up his or her work. The Office, which would replace the Commission for Investigation of Injustices, would ensure the protection of the individual against abuse and ensure that administrative decisions were just and fair.

75. Dr. MERSON (World Health Organization), referring to the AIDS pandemic, said that since the disease had first been diagnosed, almost 20 million adults and children had been infected with HIV. Of those, more than 4.5 million had contracted AIDS. Nearly half of the 6,000 people infected every day were women. Those figures were shocking.

76. Some progress had been made in the area of prevention. However, progress was greatest where human rights were respected. It should be noted, however, that widespread discrimination against people with HIV and AIDS prevailed, as did ignorance about how the disease was transmitted. Irrational fear of contamination had led not only to discrimination, but also to coercive measures erroneously taken in the name of public health. It had led to the imprisonment of some HIV-infected persons, had cost them their jobs, home and health care, had hindered their ability to travel and, in some cases, had resulted in physical violence against them. HIV infection was not limited to particular groups, which made a mockery of the perception that those infected had brought it upon themselves as a result of their irresponsible or immoral behaviour. The vast majority of the 20 million persons infected were heterosexuals, including women and children.

77. HIV prevention information and education were often inaccessible to vulnerable groups, including women, children, the poor, minorities, migrants, refugees, gay men and drug-users. For those groups, a prerequisite for successful prevention was individual empowerment, in terms of access to the means to avoid infection and the ability to use those means.

78. Coercive policies, such as mandatory testing, a lack of confidentiality, arrest and segregation, violated the rights to privacy, integrity of the person and liberty. They also drove people away from essential HIV information, care and support programmes. States should ensure that AIDS-related legislation and policies were not discriminatory, that they protected people with HIV and AIDS, and that they created the positive legal environment crucial to any effective AIDS prevention and care programme.

79. States should include in their national AIDS programmes specific activities which were aimed at combating HIV and AIDS-related discrimination and stigmatization. National human rights or ethical committees should be established to coordinate and monitor HIV and AIDS-related legal, ethical and human rights issues. States should engage in widespread educational efforts aimed not only at prevention and care, but also at non-discrimination and

tolerance. States should adopt special measures to reach vulnerable and disadvantaged groups in society in order to try to reduce their vulnerability to HIV infection. Given that women and children were among the most vulnerable, States should pay special attention to eliminating their subordinate status, which increased their vulnerability. States should support activities by NGOs and people with HIV and AIDS, and promote closer collaboration between NGOs which worked in the area of HIV and AIDS and human rights activists.

80. To be effective, however, action against AIDS must be comprehensive at the international level. The joint United Nations programme on HIV and AIDS, which would be fully operational as of January 1996, would promote non-discriminatory responses to HIV and AIDS. It would strive to make AIDS-related issues an essential part of national agendas concerning human rights and gender equality. However, assistance and support from United Nations human rights bodies were essential. It was up to the Commission on Human Rights and other United Nations human rights bodies to keep those issues under review and to engage States in dialogue. The report of the Secretary-General on international and domestic measures taken to protect human rights in the context of HIV/AIDS was a positive step. Of equal importance was the recommendation made by the Secretary-General that the Commission on Human Rights should consider the elaboration of guidelines.

81. By the year 2000, as many as 40 million people would be HIV-positive. Discrimination was not limited to the victims, but extended to their relatives, friends and associates and those blamed for the transmission of HIV. That implied that the human rights of hundreds of millions of people were being violated on the basis of health status. Human rights were universal; in the context of HIV and AIDS, they were essential in combating one of the greatest scourges ever to face mankind.

82. Mrs. BAHREMANI (Observer for the Islamic Republic of Iran) said that violence against women had been at the forefront of international issues in recent years. The matter had been addressed at conferences from Nairobi to Vienna. The culmination of the debate had been the appointment of a Special Rapporteur by the Commission on Human Rights in 1994.

83. The human rights of women and violence against them could not be considered as a private matter or an isolated issue. They formed an integral part of the human rights debate at the national and international levels. However, a careful, objective and comprehensive analysis was required, not only to avoid biased conclusions but also to help eliminate violence against women and violations of their dignity and rights. That analysis needed to be examined on three distinct but related levels, namely the family, society and the State. The family was a microcosm of society and women were the central figure of that small universe. In traditional societies, the role and significance of the family had not diminished. That was no longer true in liberal modern societies, particularly in the West. One element common to both societies was, however, the continuation of violence against women within the family. An adherence to a traditional, cultural and historical heritage, and religious values, had undoubtedly helped oriental societies to safeguard the family and preserve the basic structure of societies. However, superstitious fanaticism had prevented women from enjoying the status they

deserved even at the family level. It was alarming that on the eve of the twenty-first century, female infanticide continued in some parts of the world. The trend was diminishing but a preference for the boy-child continued, to varying degrees, in many societies around the world.

84. Discrimination against women often had its roots in superstition or in misguided interpretations of traditional and cultural norms. Thus, the notion of original sin had led some societies to believe that man was not only superior to woman but deserved to be so, so that women tended to be subjugated even in the role in which they bore the greatest responsibility, that of wife and mother. Long and patient efforts were needed if such prejudices were to be dispelled; women themselves should be aware of their rights and take part in those efforts.

85. Even in the West, the concept of the family was under threat, and the number of orphans and single-parent families was on the increase. Violence against women was often the direct result of drug addiction and alcoholism, and was unfortunately generally perceived as an unavoidable fact of life. In Western societies, emancipation had dramatically enhanced the role of women in society, had increased awareness of women's rights and had helped to ensure that those rights were legally protected. Unfortunately, emancipation had not succeeded in protecting women against the effects of pornography and prostitution, or against the exploitation of their image for commercial purposes. Violence against women, particularly sexual violence, continued to be portrayed in the media with increasing frequency. She agreed with the Special Rapporteur that pornography and prostitution, which degraded women to the level of mere commodities, were in themselves a form of violence. Women who were economically deprived or suffered extreme poverty, notably in the East European countries, were particularly vulnerable, and those aspiring to a better life in the West often found themselves trapped in a cycle of violence and persecution.

86. States had an important role to play in remedying that situation. In traditional societies, the State should ensure that in the modernization process cultural and religious values were preserved, and should at the same time make sustained efforts to remove fanaticism and superstition. It should promote women's education, ensure that women's skills were rewarded and strengthen legislation to combat violence against women. Liberal societies, for their part, should not continue to justify pornography and prostitution in the name of the principles of freedom of choice and supply and demand. While prohibition could not in itself eradicate those evils, it could at least reduce them if combined with increased welfare, health and education benefits.

87. The Islamic revival could provide a new opportunity for women to enhance their role in society and at the same time protect themselves against the causes of violence. While preserving their religious traditions and values, they could at the same time promote their greater participation in all aspects of modern life.

88. Mr. RI TCHEUL (Observer for the Democratic People's Republic of Korea), referring to agenda item 11 (a), said his delegation greatly appreciated the excellent report by the Special Rapporteur on violence against women (E/CN.4/1995/42). The situation outlined in that report confirmed the urgent

need to protect women's rights. The fact that serious acts of violence against women which should by now have been brought to justice and condemned by the international community still went unpunished, and as a result continued in new forms, gave rise to serious concern for the future.

89. Among the crimes committed by Japan during the Second World War, and which it was now seeking to conceal, had been the sexual exploitation of 200,000 women, mostly Korean, the forced recruitment of 6 million Koreans - amounting to a quarter of the country's population, and the massacre of 1 million innocent Koreans. Those were undoubtedly major crimes against humanity and against women, perpetrated by the authorities and the military on the orders of the Government. The Japanese authorities still lacked the political will to tackle that question effectively and were in fact seeking to avoid responsibility for their criminal acts.

90. His delegation had noted that Japan, which had initially recognized the Second World War as a "war of aggression", now described it as an "act of aggression", and claimed that the war in the Pacific had been a war waged on behalf of the peoples of Asia. It had deleted its crimes from school textbooks, so that the new generation of Japanese would not know the true story of their past. The discrimination and repression practised in Japan against the survivors of the millions of Koreans brought into the country by force showed that the human rights violations which Japan had begun to commit half a century earlier were still continuing. Thus, qualifications gained in Korean schools were not recognized for the purposes of entrance examinations to Japanese universities, and Koreans were required to adopt Japanese names and to speak Japanese instead of their own language. They were not even permitted to wear national costume. Women in particular suffered from discrimination in business and the professions and lived in permanent fear of violence.

91. Where the question of "comfort women" for the Japanese military was concerned, the Government was currently trying to settle the problem of compensation by setting up what it described as a "fund for peace and friendship in Asia". That made a mockery of the sufferings of the victims, and should be rejected as clear evidence of the Government's intention to evade its responsibilities. As long as the Japanese authorities continued to deny legal liability for their past crimes, Japan's attempts to play a more active role in international society could be seen only as a resurgence of its former militarism.

92. Ms. JEFFERIES (Observer for New Zealand) said the role of national institutions in protecting and promoting human rights was fundamental, since it ensured that citizens had a means for having their complaints investigated by a body independent of Government, and at the same time promoted awareness of the importance of respect for human rights in the countries concerned. She therefore welcomed the trend towards the establishment of such institutions in the Asian and Pacific region, notably in Papua New Guinea, and welcomed the Third Workshop on National Institutions shortly to be held in the Philippines. The Coordinating Committee of National Institutions, of which New Zealand was a member, had a useful role to play in defining issues in which national expertise could have relevance, and the subject of participation by national institutions in United Nations human rights meetings might usefully be

discussed at the forthcoming workshop. She commended the Commission and WHO for the joint workshop they had convened in 1994 to discuss the meaning of the right to health.

93. A new Human Rights Act, which had recently come into force in New Zealand, had made unlawful discrimination on grounds of disability (including HIV/AIDS status), or on grounds of age, employment status, family status, political opinion or sexual orientation. Following the Act's entry into force, there had been a dramatic increase in the number of complaints made to the New Zealand Human Rights Commission, and the Government had stepped up the Commission's resources accordingly. In particular, a Maori unit had been established within the Commission to ensure that complaints processes were accessible to Maoris, and to promote greater awareness among them of human rights matters.

94. The Commission also had a role in monitoring new legislation with human rights implications, notably legislation on domestic violence against women and on female genital mutilation. It was to make a comprehensive review of all New Zealand legislation in order to ensure that it complied with the requirements of the new Act.

95. Turning to agenda item 11 (a), she said that despite the success achieved in advancing the status of women since the 1993 World Conference on Human Rights, women were still underrepresented in decision-making posts and were still disproportionately excluded from jobs, education and health care. They represented the highest percentage of people living in extreme poverty, as well as the highest percentage of refugees and displaced persons worldwide. The persistence of rape, genital mutilation and other forms of violence against women was still of critical concern.

96. New Zealand believed that the overall objective of the forthcoming Beijing Conference should be the empowerment of women. Measures needed to be developed to ensure the full participation of women in all aspects of political and economic life, as well as in decision-making processes at all levels. The fact that 1995 was the first year of the International Decade of the World's Indigenous People was of particular significance to New Zealand, where Maori people held a special place in society; her delegation believed that issues of concern to indigenous women should be fully addressed in the Beijing Platform for Action.

97. New Zealand was proud of the measures it had recently taken to strengthen legislation protecting women from domestic violence. A bill introduced the previous year would extend the range of people entitled to apply for domestic protection orders, and also increase the penalties for breaches of such orders. Likewise, her delegation believed that efforts to integrate the equal status and human rights of women into the mainstream of United Nations activity should be intensified. As a first step, treaty bodies should amend their guidelines to request States parties to include in their reports gender-disagregated information on women. She welcomed the recommendation of the first meeting of special rapporteurs, representatives, experts and

chairpersons of working groups of the Commission on Human Rights that cooperation should be enhanced and exchange of information improved, and urged that as part of that process particular attention should be paid to the situation of women.

98. Now that the fiftieth anniversary of the United Nations was being celebrated, it was disappointing that the composition of its Secretariat still failed to reflect one of the fundamental principles contained in the Charter, namely, the equal rights of men and women. The serious underrepresentation of women in the Secretariat, particularly at senior levels, had long been a matter of concern to her delegation. She hoped that one result of the Beijing Conference would be an increase in the number of countries ratifying the Convention on the Elimination of All Forms of Discrimination against Women. She wished to stress, however, that if that Convention was to function effectively, adequate resources would have to be provided for the Committee, and individual Member States would need to comply with their reporting obligations.

99. The Beijing Conference would provide an opportunity for setting up a strong framework through which action could be taken both globally and nationally to advance the position of women, and all countries had a responsibility to make the most of that opportunity.

The meeting rose at 10 p.m.